

Table 1. Public comment regarding restricted access provided during the Nearshore Fishery Management Plan regulatory process (OAL file number 02-1122-05S).

These comments were made during the regulatory process to implement the Nearshore Fishery Management Plan (NFMP) and do not directly address this rulemaking. We have included these comments because they are directed at the issue of restricted access but not the proposed regulations themselves. Therefore no revisions to the Nearshore Fishery Restricted Access Program regulations in this rulemaking were necessary. Speakers, Letters, Faxes, E-mails, Public Meeting Hand-in Writers and their comments reflect the numerical listing found in comments on the NFMP.

| Speaker | Comment | Response |
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| Fish and Game Commission Meeting, May 9, 2002, Fresno, CA | | |
| S-4 Jim Bassler Salmon Troller's Marketing Association | | |
| C-1 | He supports need to have a multi-year requirement by next year for restricted access. Should be a preference given to people who have really invested a lot of time in the fishery. | The proposed nearshore fishery restricted access program has options in each region that require multi-year participation to qualify for a permit. |
| Fish and Game Commission Public Hearing, May 21, 2002, Oakland, CA | | |
| S-2 Rod Fujita Environmental Defense | | |
| C-4 | I'm of the mind that restricted access, of some kind, should be implemented as soon as possible. I think this is going to facilitate the implementation of the entire plan. I believe you're right, that the fishery is over-capitalized, and the main problem that needs to be addressed in this plan, and in most other fishery management plans, is the problem balancing fishing capacity with fish productivity. | The nearshore fishery restricted access program addresses the overcapitalization of the fleet by reducing the number of permits. Depending on the options chosen, it will be possible to bring the capacity of the fleet closer to current harvest guidelines. |
| C-5 | And, as you know, Environmental Defense favors individual fish shares, as you call them in this plan, because we think that's the most flexible tool available to ensure that fishing capacity stays balanced with fish productivity as both vary through time. We also think it's the fairest way to do it, as long as there are sufficient constraints in place to control for excessive consolidation, prevent monopolization, all the adverse social-economic effects that can result from unconstrained market forces. | The Department agrees that Individual Fishing Shares (IFS) may be an appropriate management tool for this fishery. However, issues with joint jurisdiction with the Pacific Fishery Management Council (PFMC) and the federal moratorium on Individual Transferable Quota systems make implementing an IFS program impossible at this time. We believe that the proposed nearshore fishery restricted access program is a good first step towards a sustainable nearshore fishery. |

| Speaker | Comment | Response |
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| C-6 | If you go with the limited access permit system, just make sure that you actually reduce the fishing capacity and don't allocate too many permits. This is typical for fisheries that are over-capitalized, and it doesn't do any good. | Please see response to Speaker 2, Comments 4 and 5, May 21, 2002. |
| C-7 | One of the things to think about as you move to restricted access is that the granting of exclusive privileges to harvest a public trust resource, whether it's permits or IFS, really justifies the collection of economic rent. | The Department agrees that collection of appropriate funding is important to fund research, administration and enforcement. The Department has offered a range of fees within the nearshore fishery restricted access program to help offset these costs. AB892 (Statutes of 2002, Chapter 559) amended Fish and Game Code Section 8587.1 to allow the Commission to set permit fees. |
| S-3 Robert Ingles Golden Gate Fisherman's Association | | |
| C-5 | If you could do number 8 (Alternative 8 – commercial restricted access) and include all 19 species then we could endorse that as a starting point. To bring in all these ideas together as... one big alternative. | When the FMP process began, there were control dates for participation and gear endorsements that covered only the 9 nearshore species which require a permit. For this reason and others, the Department chose to first develop a restricted access program for only these species. Recently the Commission adopted a control dates for participation and gear endorsements for the nearshore species that do not currently require a permit. This is the first step towards limiting participation in this segment of the nearshore fishery. |
| S-6 Karen Reyna Ocean Conservancy | | |
| C-6 | Finally, the individual fishing shares program is vague and it doesn't include any guidelines for creating that program. The Commission has this policy that's Policy 8 called harvest rights. It's much more detailed than what's been laid out in the plan. We ask this policy at the very least is outlined. Or it's at least referenced. In addition, on major omission from this section is the way shares will be allocated. The shares should account for environmental performance standards as well as historical catch. | The NFMP provides the framework to develop a meaningful restricted access program. Since this is a framework document, no specifics are offered for how an Individual Fishing Shares (IFS) program would be developed. Inclusion in the NFMP provides the opportunity to use this option in the future. These details, including the allocation of shares, would come with considerable public input during the development of an actual IFS program. |
| S-9 Jim Martin Nearshore Chapter United Anglers | | |
| C-6 | The real problem I have with the restricted access even when I | The Marine Life Management Act (MLMA), passed in 1998, |

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| | saw the figures of the break down of which individual commercial fisherman were catching what proportion it looked like there were about a hundred guys catching as many fish as all the rest of the recreational anglers. Maybe I'm wrong about that but when we're talking about restricted access when you get down below 100, why are we spending all this money on such a small number of people? | recognizes the importance of both sport and commercial fisheries to the State of California. Indeed, the MLMA definition of "fishery participants" expressly includes both recreational and commercial sectors without qualification, and expressly requires a fair allocation among them. It also states that these fisheries should be managed such that they are sustainable. Moreover, the Nearshore Fisheries Management Act, which is part of MLMA, clearly contemplates participation of the commercial sector. The Department believes that a well crafted commercial restricted access program can support sustainable use of nearshore resource important to the people and economy of California. Although there are relatively few nearshore commercial fishermen, they provide a significant benefit to consumers who do not catch their own fish. |
| S-11 Gene Kramer Abalone and Marine Resources PFMC | | |
| C-1 | What this really boils down to, is instead of 800 fishermen, 40 fishermen. I'm talking about 40 fishermen for the nearshore for California. That means that 19 out of 20 of those guys that are holding those licenses are going to have to find something to do. Even if we accept the optimistic scenario that we can maintain the fishery at its present level. I'm not sure that we can. | The nearshore fishery restricted access program provides a range of options that reduce the number of permits from 500 in 2002-03 to between 50 and 200 depending on the qualifying criteria chosen. |
| C-2 | And for those 40 fishermen harvesting that \$4 million catch, at \$100,000 per year, per fisherman, how much can we tax them for management fees? What can they pay? What's a reasonable figure? | Changing or creating new taxes requires legislation and is outside the scope of this rulemaking. The Commission does have the authority to set permit fees for the nearshore fishery and the Department has offered a range of fees within the nearshore fishery restricted access program. |
| S-16 John Kolstad | | |
| C-2 | Limited access, I hope that you keep limited access for commercial by individual and not boat. | The proposed nearshore fishery restricted access program provides for permits to continue to be issued to individuals. |
| C-3 | The renewal grade for of a hundred pounds is way too low. I mean that can done, I would do maybe up to couple or 350 pounds in one day. A hundred pounds is nothing. It needs to be higher than that for a true commercial fishermen rather than just a sport fisherman with a license. | The 100 pounds per year option offers fishermen who fish the nearshore part-time but have been involved for several years, the opportunity to qualify for a permit. Other options require a higher level of participation. The nearshore fishery restricted access program has many options related towards qualifying for a permit. |
| C-6 | Limit the commercial licenses to one of those given zones so that we don't have the influx of a number of fishermen from one | The Department is committed to regional management of this diverse fishery. The proposed nearshore fishery permits would |

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| | area to another. | be limited to one regional management area. There are options to allow a person to qualify for more than one regional management area and receive a permit for each area. |
| C-9 | The price of the license fee for commercial fishing is way too cheap for the amount of profit and what it leads to. | Please see response to Speaker 2, Comment 7, May 21, 2002. |
| S-18 Brian Ishida | | |
| C-1 | I want to conclude in saying, unless a major of implementation of the plan of restricted access is put in place, I support the total elimination of commercial harvesting of all fish in all water both offshore and nearshore. | The proposed nearshore fishery restricted access program is scheduled to be adopted in December 2002 should be in place for the start of the 2003-2004 fishing season. |
| Fish and Game Commission Public Hearing, June 7, 2002, Santa Barbara, CA | | |
| S-2 Chris Miller Vice President of California Lobster Trap Fishermen's Association | | |
| C-2 | I would also like to see the planning units for our limited access be developed using our ports as the natural social unit within the bioregion framework of the management zones. I think that the biogeographic region is a good region overall for looking at the habitat, but that you need to work with social units for restricted access on a smaller scale. That would be, I would suggest looking at something along the lines of the districts maybe separating the various regions by the natural groupings of harbors. | In looking at the characteristics of the nearshore commercial fishery and developing qualifying criteria, the Department looked at fishing practices at the port level, regional level, and statewide level. It was determined that fishermen moved between ports within a region far more than they moved between regions. Therefore, it was decided to characterize the commercial fishery and develop qualifying criteria on a regional level. |
| S-4 Tom Raftican President of United Anglers of Southern California | | |
| C-5 | We've got arbitrary call up of IFQs. | The Department decided not to recommend an Individual Fishing Shares Program (IFS) (Alternative 14) at this time because the State shares jurisdiction for these species with the PFMC and there is a federal moratorium on the implementation of new IFS programs. Although this option was not chosen at this time, the Commission can still adopt any of the alternatives in the NFMP in addition to or as a replacement for the proposed nearshore fishery restricted access program. |
| S-6 | | |

| Speaker | Comment | Response |
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| Joe Geever American Oceans Campaign | | |
| C-6 | So, just a short, couple of personal thoughts about restricted access. You know, I've been to a couple of meetings with the commercial fishermen and I think they deserve some recognition for working really hard. It's a hard row to hoe and they're doing their best with it, but I think with a potential effort shift from the shelf and other things coming pretty quickly, it sort of argues for doing that as fast as possible. So I guess we would just like to encourage that move forward. | The Department thanks the many individuals who contributed to the development of the proposed nearshore fishery restricted access program. This program is scheduled to be adopted in December 2002 should be in place for the start of the 2003-2004 fishing season. |
| S-11 Bill James Commercial fishermen's Association Nearshore Advisory Committee Member | | |
| C-6 | And as far as I really support the Department moving along with restricted access. Not only on the other ten species but also with the additional restricted access on the other nine. We all mentioned the three years or five or whatever we've come up with, you know. And I really support moving along with that. | Please see response to Speaker 6, Comment 6, June 7, 2002, above. The Commission recently adopted a control date for participation and gear endorsements for the nine nearshore species that do not require a permit. This is the first step in developing a restricted access program for these species. |
| Fish and Game Commission Meeting, June 20, 2002, South Lake Tahoe, CA | | |
| S-1 Jim Bassler | | |
| C-1 | I'm asking you to move forward, at least this year, to make a meaningful reduction in the fleet. And that's hard to say because I know there are going to be deserving fishermen that get cut out. | The proposed nearshore fishery restricted access program has several options that will make a significant reduction in the number of permits issued. |
| C-2 | Basically, you guys did the hard work of cutting landings, but you've got to do the hard work necessary to design a fleet that's able to catch them...to catch the amount of fish allocated. | The proposed nearshore fishery restricted access program has at least one option in each regional management area that aligns the number of permits with the capacity goal. |
| S-2 Lloyd Reeves | | |
| C-1 | Are we rewarding people that overfished nearshore resources at the expense of "A" permit holders? | The Federal Pacific groundfish limited entry program was developed based on landings made during the 1980s. The groundfish fishery has traditionally targeted shelf and slope groundfish species in federal waters with longline or pot gear. On the other hand, the nearshore fishery developed in the 1990s, well after the qualifying time period for the groundfish |

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| | | program. Additionally, fishermen targeting nearshore fish stocks use rod and reel, stick gear, and traps along with limited longline and trawl. The species targeted and gears used are different. Further, the Nearshore Fisheries Management Act expressly contemplates the establishment of a restricted access program. Federal "A" permittees have the opportunity to qualify under the provisions for either a regular permit or a "grandfathered" permit. The "grandfather" permit applies to people that have been licensed as a California commercial fishermen for 20 years or more. |
| C-5 | Third, establish fish trust allocations. This would where permit holders such as myself who would voluntarily hand over our allocation of nearshore species to the state in the form of a trust document. When the state feels the species has recovered, the fisherman or his inheritors would be once again permitted to fish. | As the recent collapse of the west coast groundfish fishery in the shelf exemplifies, the conditions under which a fishery operates can change dramatically in a short period, making prior allocations obsolete. It is uncertain what the implications and obligations of a trust system would be in that there cannot be guarantees to any sector for future rights to harvest resources. An individual or organization would be able to "buyout" a commercial fisherman by entering into an agreement that states that the fisherman will no longer renew his nearshore fishery permit. The extent to which such circumstances create a private property interest would need to be determined, probably by the Legislature. |
| Fish and Game Commission Meeting, August 1, 2002, San Luis Obispo | | |
| S-3 Karen Reyna | | |
| C-4 | Second, regional restricted access plans for the state managed nearshore fish...we urge you to implement a restricted access program immediately starting with removing the latent capacity and limiting the number of participants in the nearshore. | The proposed nearshore fishery restricted access program is due to be adopted on December 6, 2002. This program should be in place for the start of the 2003-2004 fishing season. This program has several options for qualifying criteria that result in substantial reductions in capacity, bringing the number of participants in line with the available resource. |
| C-5 | The Commission should also endorse a trap gear endorsement to cap the number of traps and address the problem of localized depletion. | Within the proposed nearshore fishery restricted access program there are options for qualifying for a gear endorsement to use trap gear. Without a gear endorsement, a fisherman could only use hook-and-line gear. |
| S-8 Lloyd Reeves Commercial fisherman | | |
| C-1 | I've talked to several members of PFMC who seem very surprised to find out that California Fish and Game was invalidating the use of some federal longline permits and doing | Pursuant to Fish and Game Code Section 9028, the use of longlines in state waters has been restricted since 1990. Please see response to Speaker 2, Comment 1, June 20, 2002. |

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| | so before management authority was even passed to them...does the State still intent to go ahead and limit fishermen with nearshore, from the nearshore fishery that have federal longline permits and a history of fishing, but were conservative in their nearshore fishing efforts? | |
| C-2 | But, I'm wondering if you've given any thought to fish trust allocations where longline permit holders could voluntarily hand over our allocation so that could go into basically a fund that would allow more fish and allow the growth to come along a little faster. | Please see response to Speaker 2, Comment 5, June 20, 2002. |
| S-11 Robert Ingles | | |
| C-3 | Restricted access, once again we need to slow down the derby fishing here. We need to reduce the fleet capacity. | Please see response to Speaker 3, Comment 4, August 1, 2002. |
| C-4 | And the idea of having an IFQ in there somewhere, that's one way for a guy to catch his fish when he has time to do it, it'll slow down the derby. | Please see response to Speaker 2, Comment 5, May 21, 2002. |
| S-15 Pete Halmay | | |
| C-1 | Regarding pilot TURF program...the 50 fishermen that fish there (nearshore from San Diego north), allow them to fish there and close it to people from outside of there. | The TURF program corresponds to Alternative 2 of the Nearshore Fishery Management Plan (NFMP) which the Commission rejected. While the TURF proposal has many ideas consistent with the NFMP and the Commission's policy on restricted access, the program would require splitting the south coast region into two or more sub-regions. The Commission has chosen not to divide the four regional management areas at this time. |
| S-17 Jesse Swanhuysen | | |
| C-4 | I would strongly urge you to adopt gear restrictions, specific to stick gear, potentially caps on traps, in the initial adoption of the plan. However, we would definitely encourage you guys to allow regional groups to address that, because...certain gear might be appropriate in certain regions and not others. | Within the proposed restricted access program there are different options to qualify for a gear endorsement for trap gear in each region. This would place a cap on the number of participants that could use trap gear. Stick gear was not included in this program because the Department is not able to identify landings made with stick gear at this time. Limits on the number of traps or sticks used could be developed by the regional advisory committees. |
| S-19 Steve Rebuck | | |
| C-1 | I'd like to preface my remarks by stating that I really like one of the things that I saw in your nearshore plan, and that is going | Please see response to Speaker 2, Comment 5, May 21, 2002. |

| Speaker | Comment | Response |
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| | to transferable quotas. | |
| C-2 | Capacity was mentioned a little while ago, if the government has to decide who can and who can't, I think that's pretty horrible. I think allowing the marketplace to decide and allowing quotas to transfer really enhances free enterprise. | Please see response to Speaker 2, Comment 5, May 21, 2002. |
| C-4 | And...going towards bottom allotments, that's something that's occurring in countries like New Zealand now where they've had ITQs for a number of years, actually going towards bottom allotments. | This comment refers to a variation of IFS or ITQ. Please see response to Speaker 2, Comment 5, May 21, 2002. |
| Fish and Game Commission Meeting, August 29, 2002, Oakland, CA | | |
| S-6 Karen Reyna Ocean Conservancy | | |
| C-4 | The restricted access, commercial restricted access. I see that you have regulations that you will be putting forward later today, it is critical to take a look at those. The optimum yield has been reduced now by 30%, that's proposed by the groundfish management team, and you really have a hard decision in front of you because with that level of catch available, it's going to be really hard to have a program that isn't really restrictive. | Please see response to Speaker 3, Comment 4, August 1, 2002. |
| C-9 | We also believe at the minimum that the Commission should consider a trap gear endorsement to cap the number of traps for each permit and help address this problem. | Within the proposed nearshore fishery restricted access program there are options for qualifying for a gear endorsement to use trap gear. Without a gear endorsement, a fisherman could only use hook-and-line gear. |
| S-14 Mike Gower | | |
| C-1 | One option is no new commercial permits for nearshore. I just cannot see that there's going to be any justification for adding pressure. | A moratorium currently is in effect that prohibits the issuance of new Nearshore Fishery Permits. The Department understands that in order to align the fleet's fishing capacity with available harvest allocations or quotas, the number of participants in the fishery must be significantly reduced. Within the proposed nearshore fishery restricted access program there are a range of options that reduce the number of permits in each regional management area. |
| Letters received by the Commission: | | |
| Letter-2 Don Ferguson | | |
| C-5 | Recommends one restriction in our area (Crescent City) and that is no fish traps for Greenling or Cabezon. | The nearshore fishery restricted access program proposes to limit the nearshore fishery to hook and line gear unless a person has a gear endorsement for traps attached to the permit. The |

| Speaker | Comment | Response |
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| | | criteria to qualify for a gear endorsement would show significant involvement in the use traps. The Commission has the ability to limit gear, either on a regional or statewide basis, because of provisions within the Nearshore Fishery Management Plan. |
| Letter-5 Lloyd Reeves | | |
| C-1 | Was shocked and disappointed after attending a Department Restricted Access for Nearshore Fisheries for four reasons: The biologists at the meeting did not seem to be aware that the Feds in 1992 already established a groundfish limited entry program that included the same fish as their "Nearshore" program and there seemed to be nor serious consideration about valid options like fish slotting or closed reserves. | Please see response to Speaker 2, Comment 1, June 20, 2002. |
| C-3 | It seems like they want to reward the recent fishermen fishing open access at the expense of more conservative fishermen (that realized how overfished the nearshore was and intentionally avoided fishing there, waiting for it to improve). In fact they want to have a program where if you don't fish for a year you will lose your permit. How does this encourage conservation? | The Commission's policy on restricted access states that some level of participation may be required and that a time period prior to the control date can be chosen. Since the intent of the restricted access program is to include those that have a history in the fishery and are current participants, a time period of 1994 through 1999 was chosen for qualifying. The proposed restricted access program has no annual landing requirement. |
| C-4 | Are we rewarding people that overfish nearshore resources at the expense of "A" permit holders? I urge you not to create a new fishery for people fishing "Open Access". If you want a limited entry program simply use the one already in place. | Please see response to Speaker 2, Comment 1, June 20, 2002. |
| Letter-8 John Henry | | |
| C-1 | Nearshore fishery should never be used as a full time business. Nearshore permit holders should have other permits like salmon, crab or whatever. | Many nearshore permittees target nearshore species only part-time. They also fish for lobster and sea urchin in the south, and salmon and crab in the north. The Department recognizes the value of full-time fishermen that fish only part-time in nearshore waters. Therefore, the proposed restricted access program presents a range of qualifying criteria some of which favors these part-time nearshore fishermen. |
| Letter-11 John Henry | | |
| | Letter is a duplicate of Letter-8. | Please see response to Letter 8, Comment 1. |
| Letter-12 Jack P. Lingenfelter | | |
| C-5 | Revoke permits from persons with less than three to four years in this fishery and from those with an insufficient number of | Under the proposed nearshore fishery restricted access program there are many options for qualifying criteria that |

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| | landings to prove that this fishery is a major part of their income. | require one to six years of participation during the qualifying window of January 1, 1994 to December 31, 1999. The Commission has the ability to choose options that best fit each regional management area. |
| Letter-19 Andre Bourbeau | | |
| C-7 | Throwing small timers or inactive fishermen out of the nearshore fishery is mostly symbolic and ineffectual. It is the big boats that catch most of the fish. | Please see response to Speaker 2, Comment 4, May 21, 2002. |
| Letter-22 Jon Krainock | | |
| C-9 | Support reduction of a capital fishing fleet and urge Commission to support reduction of all government subsidies to commercial fishing fleets. | Please see response to Speaker 2, Comment 4, May 21, 2002. Reducing any subsidies is beyond the scope of this program; the Commission does not subsidize any fishery. |
| Letter-24 David Couch | | |
| C-1 | Proposal for a pilot co-management program for Orange and San Diego Counties. | This proposal is not consistent with the goals of the restricted access program. However, implementing such a harvest rights-based program is inappropriate because of the joint jurisdiction with the PPMC for many of the species included in this plan. Please see response to Speaker 15, Comment 1, August 1, 2002. |
| Letter-25 Matthew Pickett | | |
| C-6 | Tailor restricted access policy to specific areas within the Southern Region such as Sanctuary waters. | Developing a restricted access program on a smaller scale, such as the Channel Island National Marine Sanctuary, would be costly and inefficient to administer. To ensure that effort is not focused in a specific area, other more cost-effective management measures (time and area closures, gear restrictions) may be used. |
| Letter-31 William J. Douros | | |
| C-3 | Given the depleted state of the resource, allowing too many permittees to qualify would pose a significant threat to both the immediate and long term health of the fishery. We previously commented in our letter of April 3, 2002 that the number of permittees should be limited to 71 for the central region. This will ensure that full-time fishermen who are most dependent on this fishery will be included in the program, while minimizing the number of new entrants. | Please see response to Speaker 2, Comment 4, May 21, 2002. The options for qualifying criteria allow 4 - 73 permits in the North-central Coast Region and 11 - 139 permits in the South-Central Coast Region for a total of 15 - 212 permits between Cape Mendocino and Point Conception. |
| Letter-36 | | |

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| Dick Young | | |
| C-2 | Where there is a statewide quota (specifically sea trout and cabezon) it should be divided equally between Nearshore license holders. | Currently there is a federal moratorium on implementing new Individual Transferable Quota systems, which are similar to IFS programs. Since this is a federal moratorium, and the shares management authority with the PFMC for many of the nearshore species, an IFS program could not be adopted at this time for federally managed species. Should the State receive management authority for these species, the Commission would be able to develop an IFS program in State waters. The Department would need to have in place the mechanisms to effectively manage an IFS program before the program was implemented. Before implementing an IFS program considerable public involvement would be necessary. |
| C-4 | Drop down another 2 years on the eligibility for this license. | Please see response to Letter-12, Comment 5. |
| Faxes received by the Commission: | | |
| FAX-2 Andre Bourbeau | | |
| C-1 | The FAX is a duplicate of Letter-19. | Please see response to Letter-19, Comment 7. |
| FAX-3 William J. Douros | | |
| | The FAX is a duplicate of Letter-31. | Please see response to Letter-31, Comment 3. |
| FAX-5 Mike Malone | | |
| C-18 | Limited Access: It is inappropriate to rely on ITQs and similar personal fishery share distributions as a tool to limit access. They are currently not a legal vehicle for limiting access and their future availability is highly uncertain. | Please see response to Letter-36, Comment 2. |
| FAX-8 Chris Hoeftlinger | | |
| C-27 | We believe the CPFV fleet will need a RA program to compensate for the shelf closure. More details of this program need to be included in the plan. | The new shelf closures could increase CPFV effort in the nearshore waters. The Department is looking into the need to develop a restricted access program for this segment of the recreational fishery. However, the Department chose not to recommend a restricted access program for the CPFV fleet at this time. The NFMP provides many management options, including limiting CPFVs in the nearshore. The details of any such plan would be worked out with considerable public involvement. |
| FAX-9 Jon Krainock | | |

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| | The FAX is a duplicate of Letter-22. | Please see response to Letter-22, Comment 9. |
| FAX-10 Mathew Pickett | | |
| C-1 | The FAX is a duplicate of Letter-25. | Please see response to Letter-25, Comment 6. |
| E-mails received by the Commission: | | |
| E-mail-26 Joe Geever Karen Reyna | | |
| C-1 | We ask the Commission to act immediately to finalize and implement the following sections of the NFMP: Restricted Access plans for the regions | The nearshore fishery restricted access program is scheduled to be adopted in December 2002 and in place for the start of the 2003-04 fishing season. This program provides separate qualifying criteria for the four regional management areas. |
| E-mail-36 Mike Malone | | |
| | The E-mail is a duplicate of FAX-5. | Please see response to FAX-5, Comment 18. |
| E-mail-37 Kyra L. Mills | | |
| C-6 | PRBO supports Alternative II (2.12) on restricted access using a Commercial Passenger Fishing Vessel (CPFV) Control Date. Restricting the number of CPFV that enter the fishery will ultimately benefit seabirds, given that seabird bycatch has been recorded in CPFV. | The Department is looking into the need to develop a restricted access program for the CPFV fishery. Both bird interactions and the shelf closures are compelling arguments for limiting CPFV access to the nearshore waters of the State. Should the Commission determine that limiting CPFV access to the nearshore waters is recommended, considerable public involvement would be necessary to make the program successful and meaningful. |
| E-mail-40 Questions and Comments from Pacific Fishery Management Council meeting April 2002 | | |
| C-3 | What if the PFMC closes the open access (OA) fishery and issues a permit based on participation since 1994, and the State also issues a nearshore permit but with different requirements, what will the State do with those fishermen who might fit one requirement but not another? | Both California and the PFMC are considering limited entry programs affecting open access groundfish fisheries. The scope and extent of the two programs, as currently being discussed, are expected to overlap with regard to some or all minor nearshore rockfish. Discussions have begun with regard to the need to coordinate the two programs to avoid conflicting qualification criteria and permit application process for species of mutual concern. This potential conflict could be avoided by assigning, possibly through the Plan Amendment process, specific nearshore fish stocks in specific areas off California to |

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| | | the State management process, including the State's limited entry program. |
| C-4 | Will those fishermen with an A-permit, and who currently have an allocation of the minor nearshore groundfish under the PFMC management scheme but have not made landings of nearshore groundfish receive a California restricted access permit? | Please see response to Speaker 2, Comment 1, June 20, 2002. |
| Documents handed in at the public meetings: | | |
| Public Meeting Hand-in Writer-2 Rodney M. Fujita (Speaker 2-Oakland) | | |
| C-3 | We support the IFS option for restricted access for this fishery, and suggest that restricted access be integrated with MPA implementation to prevent possible localized depletion, crowding on the fishing grounds, or other adverse impacts. | Please see response to Speaker 2, Comment 5, May 21, 2002. Although MPAs and restricted access need not be implemented at the same time, their development may be closely coordinated. |
| C-7 | If IFS program is implemented, and catch rates are monitored in-season, shareholders could trade shares for species until the first allowable catch level is achieved. This would recreate an incentive to avoid high by-catch areas while maximizing the length of the season. | Although an IFS program will not be implemented immediately, the Department does believe that IFS can be a valuable tool to limit commercial effort in the nearshore fishery. Should the Department develop an IFS program, shares would be issued for individual species where individual OYs exist. It would be possible to have trading of shares. |
| C-12 | Restricted access should be implemented as soon as possible, to facilitate all of the other management measures. | See response to Speaker 3, Comment 4, August 1, 2002. |
| C-14 | Environmental Defense favors the use of Individual Fishing Shares to match fishing capacity with fish productivity more closely, and to maximize conservation and economic benefits. | Please see response to Public Meeting Hand-In Writer 2, Comments 3 and 7. |
| C-15 | Because IFS programs generally result in greater profits for fishermen, and because they are grants of privileges to use a public trust resource, the Department is fully justified in collecting fees sufficient to administer the IFS program and conduct stock assessments. Because unconstrained market forces do not necessarily protect human values, the IFS program should include strong measures to prevent excessive consolidation of shares, absentee ownership, windfall profits, and other undesirable social and economic impacts. | The Department agrees that collection of appropriate fees is important to fund research, administration and enforcement. The Department has offered a range of fees within the nearshore fishery restricted access program to help offset these costs. |
| C-16 | Initial allocation of IFS should be based on consideration of environmental performance with respect to bycatch rates and habitat damage, as well as catch history. The Department should consider caps on share accumulation, a requirement for shareholders to be on board, and structured auctions to | Please see response to Public Meeting Hand-In Writer 2, Comments 3 and 7. |

| Speaker | Comment | Response |
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| | prevent windfall profits resulting from the granting of exclusive harvest privileges, while at the same time ensuring that legitimate participants in the fishery are not priced out of the market for IFS. Processors should be compensated for plants or capacity that is stranded as a result of IFS implementation, but should not be eligible for special processing shares. Mechanisms to ensure fair prices, such as price formulas and market surveys, should be adopted. IFS programs should be reviewed periodically, and adjusted or eliminated if they fail to achieve program objectives. | |
| Public Meeting Hand-in Writer-11 Tom Mattusch (Speaker 5-Oakland) | | |
| C-8 | 2.9 Alternative 8 - Support - Commercial Restricted Access Programs. | The Department agrees and has proposed a nearshore fishery restricted access program for commercial fishermen. |
| C-9 | 2.1 0 Alternative 9 - Support - Restricted Access Regionally. | The nearshore fishery restricted access program has been developed on a regional basis with different options for qualifying criteria for each regional management area |
| C-10 | 2.1 1 Alternative 10 - Support with proviso only if specifying landings that qualify and qualify date. | Although the Department chose not to adopt such a program (restricted access based on tiered management) at this time, the alternative remains a part of the NFMP and can be adopted at a later date. |
| C-11 | 2.12 Alternative 11 - No opinion - Let individual charter boat owners decide | The Department has chosen not to develop a restricted access program for the CPFV fleet at this time. The NFMP provides many management options, including limiting CPFVs in the nearshore. The details of any such plan would be worked out with considerable public involvement. |
| C-14 | 2.15 Alternative 14 - Support - Individual Fishing Shares. | Please see response to Public Meeting Hand-in Writer 2, Comment 3. |
| Public Meeting Hand-in Writer-17 Lloyd Reeves (Speaker 2-South Lake Tahoe) | | |
| C-2 | Establish "Fish Trust Allocations" This would be where established permit holders such as myself would voluntary hand over our allocation of nearshore species to the State in the form of a trust document. The hope would be that by not fishing the stocks could rebound faster. When the State feels that the species has recovered the fisherman (or his | Please see response to Speaker 2, Comment 5, June 20, 2002. |

| Speaker | Comment | Response |
|---|---|--|
| | descendants) would once again be permitted to fish. | |
| C-3 | The State has the opportunity to make some creative changes in the nearshore fishery. However, if you want a limited entry program simply use the federal limited entry already in place! | Please see response to Speaker 2, Comment 1, June 20, 2002. |
| Public Meeting Hand-in Writer-18 Tom Raftican and Bob Osborn (Speaker 1-Nearshore Advisory Committee Meeting) | | |
| C-28 | UASC has great concerns about the ability of limited entry to effectively control powerful and efficient fishing weapons. The history of fishery management is littered with the economic woes wrought by failed limited entry programs. The failure of PFMCs groundfish programs, promoted by the State of California, with limited entry restrictions on trawl gear was a dismal failure. California still seems incapable of realizing this failure as it has failed to act to adequately restrict State exempted trawls, some of which also dramatically affect nearshore habitats. | Pursuant to Fish and Game Code Section 7082, the MLMA recognizes many conservation and management measures, including gear requirements. Restricted access is a legitimate management strategy that has been long-recognized by the Legislature, and was adopted by the Commission as a formal policy in 1999. The Department's proposed nearshore fishery restricted access program has many options for qualifying criteria, some of which include significant reductions in the commercial fleet and bring the number of participants close to the capacity goal. Should more generous criteria be chosen by the Commission, the Department can use time and area closures, size limits, trip limits, and other management measures to ensure that the commercial fleet does not exceed its allocation. There are provisions within the proposed restricted access program to allow individuals with significant involvement in the fishery using trawl gear to remain. |
| C-30 | Numerous papers by world renowned scientists exist on IFQs and limited entry program issues, yet the Department has failed to consider some of the key issues and risks peculiar to the nearshore fishery in arriving at their recommendations. Considerable discussion of these issues has been had with the FGC consultants on Ca nearshore and Ocean coalitions listservs. In addition, UASC can provide specific papers supporting these concepts upon request. | Please see response to Public Meeting Hand-in Writer 2, Comment 3. |
| Public Meeting Hand-in Writer-19 Peter Halmay (Speaker 15-San Luis Obispo) | | |
| | The material is a duplicate of Letter-24. | Please see response to Letter-24, Comment 1. |
| Public Meeting Hand- | | |

| Speaker | Comment | Response |
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| in Writer-20 Tom Raftican and Bob Osborn (Speakers 16 & 17-San Luis Obispo) | | |
| C-1 | This material is a duplicate of material identified as Public Meeting Hand-in Writer-18 which was handed in at the Los Alamitos Nearshore Advisory Committee meeting during public testimony. | Please see response to Public Meeting Hand-in Writer 18, Comments 28 and 30. |
| Public Meeting Hand-in Writer-21 Steve Rebuck (Speaker 14-San Luis Obispo) | | |
| C-2 | As an alternative, empowering people through a transferable quota system, as practiced in New Zealand, Australia, Iceland, and to a lesser extent in some of these United States seems preferable. | Please see response to Speaker 2, Comment 5, May 21, 2002. |

Table 2. Public comment regarding the proposed Nearshore Fishery Restricted Access Program rulemaking.

Please note that all references to previous comments within this table refer to comments made during the Nearshore Fishery Restricted Access Program rulemaking (Table 2).

| Speaker | Comment | Response | Revision needed? | Section number |
|---|--|--|------------------|----------------|
| Fish and Game Commission Meeting, August 1, 2002 San Luis Obispo, CA | | | | |
| S-1 Geary Steffen | | | | |
| C-1 | Wants a level playing field and for the Commission to be fair in developing the program. | There is a broad range of options for qualifying criteria, gear endorsements and bycatch permits. | No | N/A |
| C-2 | There are concerns about safety under the current derby-style fishery. | Limiting the number of participants in a region reduces competition. Other management measures such as trip limits can reduce the derby aspects of an overcapitalized fishery. | No | N/A |
| C-3 | Will there be sufficient funding to operate this program? | AB 892 (Statutes of 2002, Chapter 559) amended Fish and Game Code Section 8587.1 to allow the Commission to set permit fees. The Nearshore Fisheries Management Act contemplates that the costs of the program will be paid for from permit fees and from other funds appropriated for that purpose. | No | 150 |
| S-2 Bob Osborn | | | | |
| C-1 | Individual Fishing Shares (IFS) may not be the appropriate choice for this fishery. Additionally conglomeration of quota shares may cause localized depletion. IFS programs are expensive to manage. | IFS has been listed in the Nearshore Fishery Management Plan (NFMP) as one of the potential management measures. However, issues with joint jurisdiction with the Pacific Fishery Management Council (PFMC) and the federal moratorium on Individual Transferable Quota systems make implementing an IFS program impossible at this time. We believe that the proposed nearshore fishery restricted access program is a good first step towards a sustainable nearshore fishery. | No | N/A |
| C-2 | Supports the USAC proposal of two rods saying that it is cost-effective. | Noted. This proposal is an alternative within the NFMP and is outside the scope of this rulemaking. | No | N/A |
| S-3 Steve Rebuck | | | | |
| C-1 | Transferable permits did not work well in the abalone fishery. New entrants have to fish more to pay for permits. | According to the Commission's policy on restricted access, restricted access permits may be transferable if there is a capacity goal and a mechanism to reach | No | 150 |

| Speaker | Comment | Response | Revision needed? | Section number |
|-------------------------------|--|---|------------------|----------------|
| | | that goal. The permit transfer system that is part of the restricted access program does this by requiring new entrants to purchase two or three permits and retire all but one. The price of these permits is what the market will bear. In addition, there is a range of transfer fees proposed to cover administrative costs. Currently there are restrictive trip limits for these species that will limit increases in effort. | | |
| C-2 | Supports transferable quotas because they create an incentive to conserve the resource. | Please see response to Speaker 2, Comment 1, August 1, 2002. Should the Commission decide to develop an IFS program there would be considerable public involvement. | No | N/A |
| S-4 Karen Reyna | | | | |
| C-1 | Supports the Department's proposed program and urged the Commission to go forward with this program. | Noted. | No | N/A |
| C-2 | There are still concerns regarding an IFS program and urged the Department and fishermen to work together on this. | Please see response to Speaker 2, Comment 1, August 1, 2002. | No | N/A |
| S-5 Bill James | | | | |
| C-1 | Will there be enough fishermen left to prosecute this fishery? Because all the regulatory changes may cause folks to drop out. Feels that the stocks are rebounding. | Please see response to Speaker 1, Comment 2, August 1, 2002. | No | N/A |
| S-6 Paul Weakland | | | | |
| C-1 | Why has the Department not learned from the abalone fishery? | It is uncertain what he meant by this comment. The nearshore fishery and the abalone fishery are different and a program for one may not apply to the other. | No | N/A |
| C-2 | Why punish fishermen for poor management? | This refers to the NFMP and is outside the scope of this rulemaking. | No | N/A |
| C-3 | What is the definition of equitable? | This refers to the NFMP and is outside the scope of this rulemaking. | No | N/A |
| S-7 Guy Grundmeier | | | | |
| C-1 | There are already regulations to manage this fishery. Additionally the number of permits has gone from 1,200 to 488. Let the dust settle before making changes. | The MLMA requires the adoption of a NFMP, and expressly allows for the establishment of a nearshore restricted access program by the Commission. Although the number of permits has declined, those | No | N/A |

| Speaker | Comment | Response | Revision needed? | Section number |
|---|---|---|------------------|---------------------|
| | | remaining could take 3-4 times the allowable catch in 2001. The Department believes that implementing a restricted access program is necessary to bring the number of permits more in line with the available catch. | | |
| C-2 | There is a need for the right science from the fishermen that are out there daily. | Please see response to Speaker 6, Comment 2, August 1, 2002. The Nearshore Fisheries Management Act expressly recognizes that there is no program currently adequate for the systematic research of nearshore stocks. Fish and Game Code Section 7060 also acknowledges the desirability of fishermen's participation in fisheries research. These considerations are appropriate to and can be addressed within the NFMP framework, not the restricted access program. | No | N/A |
| C-3 | Transferability might be a good thing. | Please see response to Speaker 3, Comment 1, August 1, 2002. | No | 150, 150.03 |
| C-4 | A \$1200 permit fee is too high. | The Department has proposed a range of \$125 - \$1200 for permit fees. | No | 150 |
| Fish and Game Commission Meeting, August 29, 2002, Oakland, CA | | | | |
| S-1 Guy Grundmeier | | | | |
| C-1 | Uses stick gear and says that it does not get lost and he does not fish in the kelp. You lose more gear with hook-and-line. | The proposed regulations allow the use of all legal forms of line gear, including stick gear. The Commission may choose to restrict the use of stick gear or other line gears within the implementing regulations or through the regional advisory committees. | No | N/A |
| C-2 | Willing to help with research. | Noted. | No | N/A |
| S-2 Jim Bassler | | | | |
| C-1 | Opposes criteria with landings in five or six years. | The qualifying criteria in each region vary, but each region has criteria that require only one or two years of participation. | No | 150, 150.03 |
| C-2 | Opposes the trap endorsement criteria saying it is too restrictive and no one will qualify. | The Department agrees and expanded the range of criteria to include landings over time and minimum landings for a number of years. | Yes | 150.03 |
| C-3 | Opposes one violation and you loose your permit. | The proposed regulations merely state that if a person is convicted of a violation, their license may be revoked, but does not require it to be revoked. | No | 150, 150.03, 150.05 |
| S-3 Tom Krebs | | | | |

| Speaker | Comment | Response | Revision needed? | Section number |
|--|--|---|------------------|----------------|
| C-1 | The restricted access program should be for active participants only. | Each option for qualifying criteria requires participation in either 2000 or 2001. | No | 150 |
| C-2 | Unreported landings should not count towards qualification. | Only landings in the Department's landing receipt database can be used to qualify. | No | N/A |
| C-3 | Trap and stick gear is a hazard for divers in Monterey. | Noted. | No | N/A |
| Fish and Game Commission Meeting, October 25, 2002, Crescent City, CA | | | | |
| S-1 Kenyon Hensel | | | | |
| C-1 | Supports the status quo for the North Coast Region which yields 35 permits. | There are several options for permit qualification in the North Coast Region, including 1 landing before the control date and one landing after. This option yields 35 permits. | No | 150 |
| C-2 | Supports receiving a permit for only one region. | There are options to allow for more than one permit if a person qualifies in more than one region as well as only one permit. | No | 150 |
| C-3 | Supports no trap endorsements in the North Coast Region for now, but wants the option available for the future. | There are several options in the North Coast Region that yield no trap endorsements. | No | 150.03 |
| C-4 | The TACs are based on a period when there was no nearshore fishery on the north coast. Therefore the TACs and capacity goal may be artificially low. | Development of TACs is part of the NFMP framework. The timeframe used may have included years when there was no fishery in one or more regions. The Department may choose to have the regional advisory committees look at this issue. If the TACs change, the capacity goal may need to be revised. | No | N/A |
| C-5 | Supports a nearshore fishery that includes all 19 species. | The NFMP list 19 species as nearshore. However, the Commission chose to develop a restricted access program for the 10 species that require a permit because control dates had already been set. Additionally, these species comprise the core group of "live fish" species while many of the other nearshore species as still landed dead. A control date has been set for these other nearshore species and a separate restricted access program may be developed in the future, if needed. | No | N/A |
| S-2 Jim Bassler | | | | |
| C-1 | Speaking for Zeke Grader who encourages the Commission to move forward with the restricted access program. | The nearshore fishery restricted access program is scheduled for adoption in December 2002 and should be in place prior to the start of the 2003-2004 fishing season. | No | N/A |

| Speaker | Comment | Response | Revision needed? | Section number |
|---|---|--|------------------|----------------|
| C-2 | Supports regional permits | The Department is committed to managing this fishery on a regional basis. | No | N/A |
| C-3 | There is a need to revisit how the TACs and allocations were developed. | This is outside the scope of this rulemaking. Please see response to Speaker 1, Comment 4, October 25, 2002. | No | N/A |
| C-4 | The amount of fish caught each year is important. | There are options in each region that require a minimum landings level (100 – 1,000 pounds) over a number of years (1 – 6). | No | 150 |
| C-5 | There are some reservations about gear endorsements. Fisherman should be able to choose what gear works best. | The issue of bycatch, as well as conflicts between the sport and commercial sectors, may necessitate regulating some types of gears. | No | 150.03 |
| S-3 Guy Grundmeier | | | | |
| C-1 | Opposes qualifying for only one region. He fishes in three regions with different gear. He needs the ability to catch fish in California not just one region. | Please see response to Speaker 1, Comment 2, October 25, 2002. | No | 150 |
| C-2 | Proposes delaying adoption of the nearshore fishery restricted access program for two years to see how the current regulations are doing in regulating the fleet and to try to collect some data. | The Department believes that because current participants could take 3-4 times the allocation and that even with seasonal closures the fishery closed early for the second year, it is necessary to implement the restricted access program as soon as possible. | No | N/A |
| S-4 Paul Weakland | | | | |
| C-1 | According to the MLMA, regulations are to be easily understood and these are not. | The Commission provided all interested individuals an Informative Digest of the regulations that was written in plain English. | No | N/A |
| Fish and Game Commission Meeting, December 6, 2002, Monterey, CA | | | | |
| S-1 Guy Martinet | | | No | N/A |
| | Sea lions are decimating our resource due to increased population size. The Commission needs to pressure the Federal government to do their job in managing this species. | The management of most marine mammals, including seals, is under exclusive federal jurisdiction. The Department and Commission's opportunities for addressing pinniped/fishery interactions in California are part of a continuing dialogue with the appropriate federal agencies to provide a coordinated approach towards sustainability of the nearshore fishery. | No | N/A |
| S-2 Mike McCorkle | | | | |
| C-1 | Would like to change the name from nearshore Bycatch Permit to Nearshore Incidental Catch Permit. | Fish and Game Code Section 90.5 defines bycatch as any species caught other than the target species. There is no definition for incidental catch in the Code or | No | 150.05 |

| Speaker | Comment | Response | Revision needed? | Section number |
|---|---|--|------------------|---------------------------|
| | | Title 14, CCR. | | |
| C-2 | Would like the Nearshore Bycatch Permit to be transferable. | Nearshore species are frequently landed live and these fish could easily be released. Permits are non-transferable because the Department does not want to encourage the continued take of these species with trawl and gillnets. | No | 150.05 |
| C-3 | We don't have any problem with the 50-pound trip limit. | The Department has recommended setting the bycatch trip limits at 50 pounds per trip. Permittees cannot exceed state or federal cumulative trip limits. | No | 150.05 |
| S-3 Steve Campe, President, Cen-Cal Divers | | | | |
| C-1 | Proposed fees are not in line with management costs if research is included. If the Commission chooses to subsidize this commercial fishery then the money should come from the General Fund and not out of the Department's budget. | The proposed fees are in line with current management costs. Once the NFMP is fully implemented in may be necessary to adjust fees. The Commission is not subsidizing the commercial fishery. Fish and Game Code Section 8586.1 states that funding shall come from the Fish and Game Preservation Fund and other funds appropriated by the Legislature for that purpose. | No | 150, 150.03, 150.05 |
| S-4 Bill James | | | | |
| C-1 | The capacity goal is based on the allowable catch right now, but this is not based on stock assessments. With increased knowledge of the biology, we're going to have greater numbers (of fish) so the fishery may be able to support more than 61 permits. | The capacity goal is based on participation between 1994 and 1999 and the 2001 OY. Should the OYs change significantly, the capacity goal would be revised. In fact, the Commission's official Restricted Access Policy requires periodic review of its programs. | No | 150 |
| C-2 | The 2-for-1 transfer system may not be necessary if the capacity goal increases in three years. | Current participants want immediate transferability, however the number of initial permits far exceeds the capacity goal in each region. The Commission's policy requires that there be a mechanism to help reach the capacity goal in any restricted access program that is over the capacity goal. A permit transfer system requires that new entrants purchase multiple permits, retiring all but one. This system allows transferability while helping to reach the capacity goal. | No | 150 |
| C-3 | The recommended permit fee of \$500 is high considering that the fleet has been off the water since September. If more revenue is necessary, raise landing taxes instead of our fees. | The recommended fees are consistent with current management costs, but may have to be adjusted once NFMP implementation is complete. Changing or creating new taxes requires legislation passed by a | No | 150, 150.03, 150.05 |

| Speaker | Comment | Response | Revision needed? | Section number |
|------------------------------|--|--|------------------|---------------------------|
| | | two-thirds majority of the Legislature and is outside the scope of this rulemaking. | | |
| S-5 Ted Wheeler | | | | |
| C-1 | Commercial fishermen cannot make a living. For every \$2.00 they make, it's going to cost \$3.00 to oversee and support. It would be cheaper to pay the commercial fishermen not to fish or to re-train them. | There are limited federal funds under the Groundfish Disaster Relief Program for re-training commercial fishermen. There is no legal requirement that the State of California implement a commercial fishermen's "buy-out". The federal groundfish disaster relief program was authorized by Congress in part because the federal government had actively encouraged fleet expansion and so was deemed to have some responsibility for the fleet's current overcapitalization. No similar situation exists here. | No | N/A |
| C-2 | Save what's left of the broodstock, close the commercial fishery and save the recreational fishery. The recreational fishery is what supports the Department. | Consistent with MLMA and Fish and Game Code Sections 7055, 7056, and 8585.5, the NFMP states that it is state policy to assure sustainable commercial and recreational nearshore fisheries, to protect recreational opportunities, and to assure long-term employment in commercial and recreational fisheries. Additionally, the Nearshore Fisheries Management Act expressly contemplates a role for the commercial sector in this fishery. The Department believes that implementation of the recommended options will result in a sustainable nearshore fishery for both recreational and commercial sectors | No | N/A |
| S-6 Paul Weakland | | | | |
| C-1 | In the abalone fishery, there was a 2-for-1 permit transfer system which resulted in the new entrants fishing harder to pay for the extra permits purchased. This was a detriment to the resource as the permits were not used to their full ability by the previous owners. | A 2-for-1 permit transfer system allows for new entrants into the fishery while helping to reach the capacity goal via permit reduction. In the abalone fishery, catch limits were very high during the same period as the permit transfer system which allowed for large increases in catch by new entrants. Currently, restrictive trip limits restrain the amount of fish each permittee can catch. | No | 150 |
| S-7 Randy Fry | | | | |
| C-1 | The proposed permit fee of \$500 does not cover the costs associated with managing the nearshore fishery. Based on the management costs listed in the NFMP (\$7.8 million), proportion of the OY | The \$7.8 million in management, research and enforcement costs for the nearshore species includes all 19 species while the nearshore restricted access program covers only 10 species. These permittees are | No | 150, 150.03, 150.05 |

| Speaker | Comment | Response | Revision needed? | Section number |
|-----------------------------|---|---|------------------|---------------------------|
| | allocated to the commercial fishery (0.25) and number of permits issued (174) the cost of a permit should be around \$11,000. | not expected to pay costs associated with managing species that anyone with a commercial fishing license can take. Additionally, the NFMP has not been fully implemented, so some projected costs have yet to be incurred. The proposed fee covers the costs of managing the fishery at the early stages of implementation and may have to be revisited once full implementation has occurred. | | |
| C-2 | Fish and Game Code Sections 710.5 and 711 state that, to the extent feasible, the costs of commercial fishing programs shall be provided out of revenues from landing taxes and permit fees. | While this is true, Fish and Game Code Section 8586.1 states that funding for the Nearshore Fisheries Management Act should come from Fish and Game Preservation Fund monies (permit fees) and other funds appropriated for these purposes. This means that not all costs have to be covered by commercial permit fees. Fish and Game Code Section 710.7 also provides that a portion of marine resource protection costs should be allocated to those who use and benefit from wise management of the marine fishery resources. | No | 150, 150.03, 150.05 |
| S-8 Hugh Thomas | | | | |
| C-1 | The proposed permit fee of \$500 is too high, given the restrictions. It would be to the Department's and the fishermen's benefit to raise landing taxes. | Please see response to Speaker 4, Comment 3, December 6, 2002. | No | 150, 150.03, 150.05 |
| S-9 Daniel Platt | | | | |
| C-1 | The nearshore fishery is only one of many fisheries that I am involved in and in 2002 my permit fees totaled \$1500. Raising the permit fee to \$500 is too much given the other fees he has to pay. Instead, look to raising the landing tax to increase revenue. | Please see response to Speaker 4, Comment 3, December 6, 2002. | No | 150, 150.03, 150.05 |
| C-2 | Many of us travel in our fisheries. Many Ft. Bragg fishermen travel north of Cape Mendocino. He would like to be able to purchase permits for other regions, or if they qualify in more than one region be able to choose which area he fishes in on an annual basis. | The number of permits in each region greatly exceeds the capacity goal for that region. Limiting permittees to one region helps to reduce the number of permits. If permittees were allowed more than one permit it would be necessary to make the qualifying criteria more stringent so that the number of permits is not too high. Allowing fishermen to choose their region each year will not assist in reaching the capacity goal because the number of permits could actually increase in a region if too many people choose to fish there. | No | 150 |
| S-10 | | | | |

| Speaker | Comment | Response | Revision needed? | Section number |
|---------------------------------|--|--|------------------|---------------------------|
| Jim Bassler | | | | |
| C-1 | The Department did a good job in developing this program. | The Department thanks you for your comment. | No | N/A |
| C-2 | He favors immediate transferability, but would like to see it limited to 2002-03 permit holders for a few years before letting anyone in. It gives those that have participated but don't qualify for restricted access a better chance of staying in the fishery. | Limiting the number of fishermen eligible to transfer permits would slow the number of permits transferred and thus any reduction in the number of permits. This is not desirable considering that the fleet is still over the capacity goal. | No | 150 |
| C-3 | He would prefer increasing landing taxes instead of permit fees. | Please see response to Speaker 4, Comment 3, December 6, 2002. | No | 150, 150.03, 150.05 |
| S-11 Guy Grundmeier | | | | |
| C-1 | He thinks does not qualify, even though he is in the top 10% in landings, because he fished in the south through 1999 and in the south-central from 2000 on. | Although the Department has recommended one set of qualifying criteria, several options exist for each region and can be adopted by the Commission. The program allows applicants who have been denied a permit to appeal to the Commission. | No | 150, 150.03, 150.05 |
| C-2 | Criteria are more stringent in the south-central and south when those are the folks that built the fishery. Why don't you make the qualifying criteria the same for the whole state? | The NFMP proposes to manage the nearshore resource on a regional basis. It's true, this fishery developed in the south and spread north. Developing statewide qualifying criteria would be difficult and would result in few fishermen in the northern regions and the vast majority in the southern regions. This could be detrimental to the resource as many nearshore species are residential in nature. | No | 150, 150.03, 150.05 |
| C-3 | Let the 500 guys stay in it. The Department has nothing to prove that there should only be 61 permits in the fishery. Right now there are only 500 guys and 1,100 miles of coastline, that's 3 - 5 miles each. | Please see response to Speaker 7, Comment 1, August 1, 2002. | No | N/A |
| C-4 | Set OYs for each region but let the fishermen move between regions. | Give that current participants can easily take 3-4 times the OY, if the Department sets regional OYs but allows fishermen to move between regions, it will create a derby fishery in each region. Permittees could fish one region until it is closed, then proceed to the next until each region is closed. | No | 150 |
| S-12 Thomas Hutchins | | | | |
| C-1 | He's afraid that he doesn't qualify under the Department's recommended qualifying criteria. He | Please see response to Speaker 11, Comment 1, December 6, 2002. | No | 150 |

| Speaker | Comment | Response | Revision needed? | Section number |
|------------------------------|---|--|------------------|---------------------------|
| | might qualify under 20-year fisherman. He's used trap, but thinks he doesn't qualify for a gear endorsement. | | | |
| C-2 | He feels that the Department is outlawing stick gear because it says line gear. Eliminating these gears will make it harder to catch the fish. | Please see response to Speaker 1, Comment 1, August 29, 2002. | No | 150 |
| C-3 | Why give only 20% of the fish to the commercial sector when the public wants California-caught fish? Commercial-caught fish produces revenue and recreational doesn't. | The allocation between recreational and commercial sectors is based on the landings history of both sectors in the 1980s and 1990s. Both the commercial and recreational sectors produce revenue for the state of California through the purchase of gear, boat fuel, food and other supplies. | No | N/A |
| C-4 | The regions should be equal. Why should the rules be different? | Please see response to Speaker 11, Comment 2, December 6, 2002. | No | 150, 150.03, 150.05 |
| S-13 Gene Kramer | | | | |
| C-1 | We have an overcapacity problem which is not unique to the nearshore fishery. I think it would be kinder to set the number of permits at the capacity goal. If we've underestimated the amount of fish, the capacity goal can increase later. | There are options for qualifying for initial permit issuance within the proposed restricted access program that result in a number of permits equal to or less than the capacity goal. However, reducing the fleet to the capacity goal immediately would be too disruptive to the fleet and the markets that depend on them. | No | 150 |
| S-14 Tom Matouche | | | | |
| C-1 | Supports a recreational preference in the nearshore fishery. Would like a recreational preference for nearshore rockfish until studies show there's sufficient excess to permit commercial take. | This comment was really in response to another agenda item asking the Commission to set a recreational preference for nearshore species. Please see response to Speaker 5, Comment 2, December 6, 2002. | No | 150 |
| S-15 John Colgate | | | | |
| C-1 | The South Coast Region boundary was set at Point Conception but he would like to see it at Point Arguello. The reason for the boundary at Point Conception was that it matched the PFMC's boundary. In the MPA section of the NFMP it says that Point Arguello will be used as the northern boundary for the South Coast Region. The finfish trap fishery uses Point Arguello as the northern | Regional boundaries were adopted as part of the NMFP framework process. Changing the boundaries is outside the scope of this rulemaking and would require amending the NFMP. Nearshore species landings between Point Arguello and Point Conception area averaged only 3,359 pounds per year for the period 1994-2000. This is less than one percent (0.0017%) of the total commercial | No | N/A |

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| | boundary for the finfish trap permit, South Coast Region fishermen fish north of Point Conception while South-Central Coast Region fishermen do not go south of Point Arguello. It would relieve congestion in the South Coast Region. | landings of all species (1,890,171 pounds) in this area. An average of 1,141 pound per year were landed in ports north of this area, while an average of 1,918 pounds were landed in ports south of this area. The Point Conception boundary is consistent with the PFMC's management area and would not impact the other 1,886,812 pounds landed annually from this area. | | |
| C-2 | A 2-for-1 permit transfer system had a negative impact on the abalone resource because new entrants had to fish harder to pay for permits which were purchased from older fishermen that were not participating as much. He would like to wait to implement this until the resource can handle the increased pressure. | Please see response to Speaker 6, Comment 1, December 6, 2002. | No | 150 |
| S-16 Dennis Garmany | | | | |
| C-1 | He's been fishing in the nearshore with two boats since 1999 and if you do it the way the Department recommends, he will not qualify and has no way to recoup his losses. | The Commission set a control date of December 31, 1999 and within the proposed regulations there are several options that do not require landings in more than one year prior to the control date. If he fails to qualify for a permit, the program has provisions to appeal this. | No | 150 |
| C-2 | You're discriminating against north and south with qualifying criteria. | Please see response to Speaker 11, Comment 2, December 6, 2002. | No | 150, 150.03, 150.05 |
| S-17 Kai Russell | | | | |
| C-1 | Please remember that the goal of this program is both sustainable fisheries and sustainable fishing communities. | Consistent with the MLMA and pursuant to official Commission policy, the goal of any restricted access program is: a) to contribute to sustainable fisheries management by matching effort to the available resource, b) provide funding for management, research and enforcement, c) provide long-term social and economic benefits to the State and fishery participants, and d) to provide opportunities for the commercial fleet to share management responsibilities with the Department. | No | N/A |
| C-2 | Supports four regions. | Regional boundaries were adopted as part of the NMFP framework process. The proposed restricted access program provides for regional permits and initial qualifying criteria based on historical participation | No | 150, 150.03, 150.05 |

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| | | in that region. | | |
| C-3 | Hopes the Commission is flexible in adoption of the program. Prefers to see increases to the landing tax rather than a fee increase. If a fee increase is necessary, would like to see it phased in over time. | Changing or creating new taxes requires legislation and is outside the scope of this rulemaking. The proposed fee covers the costs of managing the fishery at the early stages of implementation and may have to be revisited once full implementation has occurred. Phasing in the fee increase over time would result in shortfalls that would have to be covered with other funds. | No | 150, 150.03, 150.05 |
| C-4 | Regarding that ensuring that food producers pay for their entire system of producing food, that is not the model of this country. There is a \$190 million subsidy for farmers, so it needs to be fair and equitable for fishermen. | The policies and economics surrounding terrestrial agribusiness are not analogous to the commercial fishing industry, which involves harvesting a public trust resource pursuant to a state license, permit or other entitlement. The restricted access program does not require the commercial fishing sector to pay for their entire system of producing food. For example, fish receivers, processors and wholesalers are all subject to licensing fees that are outside the scope of this rulemaking. Agricultural subsidies are a policy question for the U.S. Congress and is outside the scope of this issue here. | No | N/A |
| S-18 Giovanni Nevoloso | | | | |
| C-1 | Can't fish all the time because of weather and there is so little fish, why don't you just close the fishery? Made only two deliveries with cabezon last year before the fishery closed. | Reducing the number of permittees gives those remaining more opportunity to fish for nearshore species, so that closing the fishery may not be necessary. | No | N/A |
| S-19 Raleigh Sharp | | | | |
| C-1 | Does not like the regional split because he's fished all over the state. When you split up the state, you keep someone from moving around. | Please see response to Speaker 11, Comment 4, December 6, 2002. | No | N/A |
| C-2 | Traps target cabezon and take the quota quickly, leaving grass rockfish. It's not profitable to fish for only one species. He would like to see the OY split between trap and line gear. | Already the commercial allocation is split into four regions. Additional divisions would greatly increase management costs for the fishery. There may be little benefit to line fishermen because even if the trap quota closes first, permittees with trap gear endorsements could switch to line gear and take the line gear allotment. | No | N/A |
| S-20 Bob Humphries | | | | |

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| C-1 | Divers are completely dependent on the nearshore. | Fish and Game Code Section 8585.5 of the Nearshore Fisheries Management Act expresses the policy of the state to include the protection of recreational opportunities as well as commercial and recreational fishing opportunities whenever "feasible and practicable". | No | N/A |
| C-2 | CenCal would like to see a restriction on trap gear. The Department conducted a trap study which talks about the potential effects from trapping and that some states have already banned trapping. Has there been a follow-up study? | The use of traps in the nearshore fishery will be very restricted, with a small portion of permittees allowed to use trap gear. This combined with the current closures and limits on the number of traps used should limit trap effort. Further limits on trap gear may be addressed under phase III of the NFMP's implementing regulations or could be addressed by the regional advisory committees. There has been no follow-up study done on trap gear. | No | 150, 150.03 |
| C-3 | CenCal would like to see a restriction on stick gear. Long line gear in the nearshore was banned. Now it's been replaced by stick gear, which is a long line broken into pieces. Has there been a study on this? | Please see response to Speaker 1, Comment 1, August 29, 2002. | No | 150, 150.03 |
| C-4 | MLMA calls for fair allocations, but keeping recreational fishermen off the water for six months while the commercial fishery is open is not fair. | The commercial and recreational seasons for nearshore rockfish were set by the PFMC with input from the Groundfish Advisory Panel (which included representatives of the recreational fishing sector) and the States. This is outside the scope of this rulemaking. | No | N/A |
| S-21 Ron Gaul | | | | |
| C-1 | Supports the comments made by Bob Humphries. | Please see response to Speaker 20, Comments 1, 2, 3, and 4, December 6, 2002. | No | 150, 150.03 |
| Fish and Game Commission Meeting, December 20, 2002, Monterey, CA. | | | | |
| S-1 Randy Fry | | | | |
| C-1 | The proposed permit fee of \$500 does not cover the costs associated with managing the nearshore fishery. Based on the management costs listed in the NFMP (\$7.8 million), proportion of the OY allocated to the commercial fishery (0.25) and number of permits issued (174) the cost of a permit should be around \$11,000. | Please see response to Speaker 7, Comment 1, December 6, 2002. | No | 150, 150.03, 150.05 |
| C-2 | Fish and Game Code Sections 710.5 and 711 state that, to the extent feasible, the costs of commercial | Please see response to Speaker 7, Comment 2, December 6, 2002. | No | 150, 150.03, |

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| | fishing programs shall be provided out of revenues from landing taxes and permit fees. | | | 150.05 |
| S-2 Paul Weakland | | | | |
| C-1 | Landing taxes should be used to pay for management. | Landing taxes are used to help pay for management costs. Revenue from this tax is limited and changing or creating new taxes requires legislation passed by a two-thirds majority of the Legislature and is outside the scope of this rulemaking. | No | 150, 150.03, 150.05 |
| C-2 | Why is there no proficiency test as there was for abalone? | The abalone fishery and the nearshore fishery are very different, both in the species harvested and the methods of harvest. The Commission's restricted access policy recognizes that restricted access programs should be tailored to the fishery, and not the same for all fisheries. The Department felt there was no need for a proficiency test and there was no support for a test by current participants. | No | 150 |
| C-3 | The 2-for-1 permit transfer system did not work in the abalone fishery. | Please see response to Speaker 6, Comment 1, December 6, 2002. | No | 150 |
| S-3 Bob Strickland | | | | |
| C-1 | What Randy Fry (Speaker 1, December 20, 2002) is trying to say is that they (commercial fishermen) should pay their fair share. An \$11,000 permit fee is not fair, but neither is \$500. | The \$500 permit fee represents a fourfold increase in fees for nearshore fishermen. It is a good first step and can be revisited at a later date. | No | 150, 150.03, 150.05 |
| E-mails received by the Commission | | | | |
| E-mail-1 Tom and Sheri Hafer | | | | |
| C-1 | Support qualifying criteria for a trap endorsement in the South-Central Coast Region of a minimum of 1,000 pounds landed in each of three years during the qualifying period. | This is one of many options available to the Commission. | No | 150.03 |
| C-2 | The Department needs to think about the economics of the fishery. The capacity goal should be set so that the number of participants can make a decent living. | The capacity goal is based on the potential catch of qualifying individuals. Their individual potential catch was summed cumulatively until it reached the TAC. That number of permits became the capacity goal. | No | 150 |
| C-3 | The TAC was too low. | Please see response to Speaker 1, Comment 4, October 25, 2002. | No | N/A |
| C-4 | Supports qualifying criteria for a South-Central Coast Nearshore Fishery Permit of a minimum of 1,000 | This is one of the many options available to the Commission. | No | N/A |

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| | pounds landed in each of five years during the qualifying period. | | | |
| E-mail-2 Mark Hitchcock | | | | |
| C-1 | Supports limiting the gear to rod and reel for some nearshore species. | This is outside the scope of this rulemaking. | No | N/A |
| E-mail-3 Terry Lamb | | | | |
| C-1 | The nearshore fishery restricted access program is in violation of the Magnuson Act because it does not follow the guidelines for capacity reduction. Additionally, the Department has failed to implement a Fisheries Disaster Relief Plan. | The Department has not requested that the PFMC implement a fishery capacity reduction program because the proposed nearshore fishery restricted access program meets the guidelines of such program. There is no legal requirement that the State of California implement a Fisheries Disaster Relief Plan. The federal groundfish disaster relief program was authorized by Congress in part because the federal government had actively encouraged fleet expansion and so was deemed to have some responsibility for the fleet's current overcapitalization. No similar situation exists here. | No | N/A |
| C-2 | How can the Department choose a qualifying time period that pre-dates the permit? | The Commission's policy on restricted access states that qualification can be based on fishery participation during a period of time preceding the control date. The Commission's policy does not restrict that time period to when a permit was required. In some instances, a restricted access program may be developed for a fishery that has no specific permit. A prospective control date could encourage speculation in permits. A retroactive control date ensures protection for those fishermen who can establish a bona fide commitment to the fishery. | No | 150 |
| E-mail-4 Mark Hitchcock | | | | |
| C-1 | Please consider some type rod and reel gear exemption that would enable rod and reel fishermen to fish throughout the year. This would benefit all involved; the price per pound would increase, quality would increase, fishermen and markets could plan a regulated sustainable harvest, and the bycatch would decrease. | The proposed restricted access program allows all hook and line gears along with limited trap effort. Phase II of the implementing regulations proposes cumulative trip limits for nearshore species. The limit on trap effort and cumulative trip limits should slow effort and allow the fishery to extend throughout the year. | No | 150, 150.03 |
| E-mail-5 Mark Hitchcock | | | | |

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| C-1 | I would like to see the majority of commercial fishing done in State waters to be limited to rod and reel gear with access open all year to establish reliable markets, mainly targeting the live fish industry to achieve maximum benefit from our natural resources. This way stocks can be regularly accessed and assessed and tabulated to take advantages of changes in fish stock abundances. | Please see response to E-mail-4, Comment 1. | No | 150, 150.03 |
| C-2 | Right now, lingcod are more abundant in San Diego waters that they have been in 20 years, yet they remain closed in hope that fishermen won't catch rockcod. People in control of regulating fisheries have an unattainable goal of what they term "virgin levels". This is a pipe dream. You can not begin to assure anyone that any management plan will work as designed. | This is outside the scope of this rulemaking. The concerns expressed regard federal restrictions on the groundfish fishery. | No | N/A |
| E-mail-6 Mark Hitchcock | | | | |
| C-1 | Please look for my written comments overnighted to CDFG's Monterey office. | Please see response to E-mail-4, Comment 1. | No | 150, 150.03 |
| C-2 | I hope that the nearshore licenses don't end up with 4 months of tightly regulated fishing - even filling the proposed quotas wouldn't sustain a business. | This is outside the scope of this rulemaking. Phase II of the NFMP implementing regulations proposes a 10-month season for state-managed species that matches the federal rockfish season. | No | N/A |
| E-mail-7 Kenyon Hensel | | | | |
| C-1 | It is a grave hardship in these times of cuts to increase our permit (fee) fourfold. Please consider waiting until we have stabilized our regional management before instituting such a large increase. The support of the fisheries should come from the people who are using the resources, thus landing taxes are an equitable way to spread costs. | Please see response to Speaker 4, Comment 3, December 6, 2002. | No | 150, 150.03, 150.05 |
| C-2 | Permit costs should cover only the actual costs of administering the licenses. With an 80% reduction in the number of participants, the administrative costs must have decreased. | Fish and Game Code Section 711(b) states that the costs of commercial fishing programs shall be provided out of revenues from commercial landing taxes, license fees, and other revenues. The costs of commercial fishing programs include administration, enforcement, management and research. | No | 150, 150.03, 150.05 |
| E-mail-8 Randy Fry | | | | |

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| C-1 | The proposed permit fee of \$500 does not cover the costs associated with managing the nearshore fishery. Based on the management costs listed in the NFMP (\$7.8 million), proportion of the OY allocated to the commercial fishery (0.25) and number of permits issued (174) the cost of a permit should be around \$11,000. | Please see response to Speaker 7, Comment 1, December 6, 2002. | No | 150, 150.03, 150.05 |
| Letters received by the Commission | | | | |
| Letter-1 Terry Lamb | | | | |
| C-1 | This is a duplicate of E-mail 3. | Please see response to E-mail 3, Comments 1 and 2. | No | N/A |
| Letter-2 Andre Bourbeau | | | | |
| C-1 | This is in response to the early closure of the sheephead fishery in California. He feels that if no traps are allowed, the sheephead catch would slow enough that the fishery would not close early. | Limiting efficiency (by restricting the amount or type of gear used) is one way to slow the catch and extend the season. Another way is to develop trip limits or time closures to spread the catch over the entire season. | No | N/A |
| Letter-3 Roger Cullen | | | | |
| C-1 | Prefers a tier-management approach to the nearshore fishery. | While this alternative remains in the NFMP, the Department chose to develop a basic restricted access program at this time because there was little support statewide for a tiered system. | No | N/A |
| C-2 | Supports qualifying criteria for a trap endorsement that includes a number of years (3 – 6) with a minimum level of landings. | There is an option using these criteria in each region to qualify for a trap endorsement. | No | 150.03 |
| Letter-4 Pete Halmay | | | | |
| C-1 | The TURF proposal may have been either misunderstood or ignored in preparation of the nearshore fishery restricted access program. The TURF proposal addresses sub-regional management, recognizes the need for better data and establishes a process for involving fishermen in the data collection. | The TURF program corresponds to Alternative 2 of the Nearshore Fishery Management Plan (NFMP) which the Commission rejected. While the TURF proposal has many ideas consistent with the NFMP and the Commission's policy on restricted access, the program would require splitting the south coast region into two or more sub-regions. The Commission has chosen not to divide the four regional management areas at this time. | No | N/A |
| Letter-5 Charles Davis | | | | |
| C-1 | There have already been enough restrictions (time closures, increased size limits, limited entry finfish | Please see response to Speaker 7, Comment 1, August 1, 2002. | No | 150 |

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| | trap fishery) in southern California, please do not take away anyone's permit who is still participating. | | | |
| Letter-6 Timothy Bloom | | | | |
| C-1 | Prior to the nearshore fishery permit, the information on the landing receipts varied widely. Additionally, fishermen were more inclined to put long line gear inside one mile. In 1999, people were fishing and recording landings correctly. It's better to go on 1999 landings. | The Commission set a control date for participation of December 31, 1999. According to the Commission's restricted access policy, qualification can be based on participation during a period of time preceding the control date. The proposed d program uses participation from 1994 through December 31, 1999 for qualifying for a permit. | No | 150, 150.03 |
| C-2 | The average price per pound in the Half Moon Bay area was only \$1.50 - \$2.00 for cabezon during the qualifying period. In other areas, the average price per pound was \$4.25. A pound of fish is a pound of fish. Fishermen are not able to control the price of their catch. Here in Half Moon Bay there is no live fish buyer. | The Department is aware of the price differences in the various regions. That is why the range of average price per pound used in the qualifying criteria in each region differed. Additionally, there were several options that did not use price per pound as a criteria and the Department did not recommend using price per pound as qualifying criteria in the North-Central Coast Region. | No | 150, 150.03 |
| C-3 | About the 3 to 15 permit capacity goal. Gill net boats averaged 5,000 - 25,000 pounds a week (1978 - 1983). One long line could catch 600 pounds per day in this area. Nearshore fishermen average about 335 pounds in a whole year and you're worried about 35 or so fishermen. | In the North-Central Region the potential catch of all permittees is four times the estimated TAC for the region. This indicates that the fleet is overcapitalized. Adopting the recommended qualifying criteria will reduce the potential catch to 2.3 times the TAC. | No | 150 |
| C-4 | Go by 1999 - 2002, if any years. More years count little towards tomorrow. | The Commission has set a control date of December 31, 1999 for participation. Therefore, participation prior to the control date has to be the major component of the qualifying criteria. Participation after the control date can be used, but minimally to ensure continued participation in the fishery. | No | 150, 150.03 |
| Letter-7 Peter Halmay | | | | |
| C-1 | Please take the following actions when making a decision regarding a restricted access program for the commercial nearshore fishery: No changes in the landing requirements required to renew permits for fishermen holding finfish trap permits and nearshore fishery permits until after the southern California regional advisory committee has considered the effects on fishers' behavior and the effects on the resource. | Please see response to Speaker 7, Comment 1, August 1, 2002. | No | 150, 150.03 |

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| C-2 | The Commission should request that the Department give careful consideration and ample opportunity for discussion of the TURF pilot proposal at the first meeting of the southern California regional advisory committee. | Comment noted. | No | N/A |
| C-3 | Place an immediate moratorium on the harvest of sheephead in the area north of Point Conception. | This is outside the scope of this rulemaking. | No | N/A |
| Letter-8 Andre Bourbeau | | | | |
| C-1 | Sheephead traps target fish of less than 4 pounds, which are usually female. Sheephead trapping is not sustainable, nor is any other live fishery that targets females. | California sheephead are hermaphrodites, beginning life as females. The transformation involves cues from the local population's sex ratio as well as the size of available males and may not occur at all. Size limits were adopted to avoid targeting fish below the size when the transformation usually occurs. Additionally, the NFMP provides mechanisms to allow for a sustainable harvest of sheephead and other nearshore species. | No | N/A |
| C-2 | The limited entry proposal leaves 39 sheephead trappers in southern California. It does nothing to slow the race to catch the quota in any weather. | The Department's recommendation for qualifying criteria for a south coast region trap gear endorsement results in a significant reduction (115 to 39) in the number of fishermen using trap gear in southern California. Additionally, a separate rulemaking proposes cumulative trip limits for sheephead to slow the race for fish. | No | 150.03 |
| C-3 | If you won't stop sheephead trapping or explain why you let a fishery in effect target the female population, I think the issue should be brought to the media and the courts. | The issue of restricting gear in the nearshore fishery may be addressed in Phase III of the NFMP implementing regulations or may be addressed in the regional advisory committees. | No | 150.03 |
| Letter-9 Mark Hitchcock | | | | |
| C-1 | I support the take of all species in nearshore waters through the use of rod and reel gear for commercial purposes and would like it to be a year-long fishery. | Please see response to E-mail-4, Comment 1. | No | 150, 150.03 |
| Letter-10 Tom Hafer | | | | |
| C-1 | I would like to see the criteria for the trap gear endorsement in the South-Central Coast Region brought up to at least 1,000 pounds. Traps catch so much more than hooks, they justify tougher criteria. I began fishing the nearshore in 1994 and was the | It is unclear whether the commenter supports at least 1,000 pounds landed with trap gear between 1994 and 1999 (Department's recommendation for the North-Central Coast Region) or a minimum of 1,000 pounds landed with trap gear in each of three years between | No | 150.03 |

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| | first person to use traps, by 1998 there were only 6 guys fishing trap yet the DFG recommends criteria resulting in 13 trap gear endorsements. | 1994 and October 20, 2000 (similar to Department's recommendation for the South-Central Coast Region). Both options are in the regulatory package. Between 1994 and October 20, 2000 there were 30 individuals that qualify for a South-Central Coast Region Nearshore Fishery Permit under the Department's recommendation, that have made landings with trap gear. Of these 30 individuals, less than half would receive gear endorsements under the Department's recommended option. Additionally, under the Phase II NFMP implementing regulations the Department is proposing cumulative trip limits for state-managed species, similar to the federal rockfish trip limits which should slow effort. | | |
| C-2 | The recommended qualifying criteria for a NFP are too low at 500 pounds in each of three year between 1994 and 1999 given that the capacity goal is 23. With the regional quota in our region at about 132,000 pounds that is only 2,500 pounds per permittee. I think the criteria should allow only 40 guys in our area. This would mean raising the poundage to at least 1,000 pounds or more. Let's not wait and watch this fishery suffer another year of long closures. | It is unclear whether the commenter supports at least 1,000 pounds landed between 1994 and 1999 or a minimum of 1,000 pounds landed in each of three years between 1994 and 1999 (similar to Department's recommendation for the South-Central Coast Region). Both options are in the regulatory package. The Department's recommended criteria reduces the number of participants in the South-Central Coast Region by 65% and yields a potential catch that's twice the TAC. Any further reduction in the fleet may be too disruptive to the markets relying on this fishery. Additionally, under the Phase II NFMP implementing regulations the Department is proposing cumulative trip limits for state-managed species, similar to the federal rockfish trip limits which should slow effort. | No | 150 |
| C-3 | There needs to be a longer wait to transfer NFPs and gear endorsements. At least three years so that guys don't go out and sell permits wide-open on the market. The fishery needs time to stabilize, we don't need a bunch of new players in the mix. | There are options within the proposed regulations that provide for a two-year moratorium on the transfer of permits and gear endorsements. The Department recommended immediate transferability because it could start to reduce the capacity due to the 2-for-1 permit transfer system proposed and many of the fishermen wanted it. | No | 150, 150.03 |
| Letter-11 Charles Ward | | | | |
| C-1 | After the restricted access program is enacted, the fleet will still remain over-capitalized. A restricted access program is effective as a conservation measure only if the capacity of the fleet matches a | Under the Department's recommendations, the number of permits issued will exceed the capacity goal. A restricted access program can still be effective if other management measures are used to limit take. In a | No | 150 |

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| | properly set target catch. Because the fleet will remain overcapitalized, the restricted access program will not realize the sustainability goals of the MLMA or NFMP. | separate rulemaking, Phase II implementing regulations propose cumulative trip limits and seasonal alignment with the federal rockfish trip limits and seasons. | | |
| C-2 | DFG statistics indicate an average ex-vessel value for rockfish of \$2.77 per pound. At this price the value of the commercial harvest would be about \$1.8 million. The NFMP estimates the costs for managing the nearshore fishery to be \$9 million. Given an allocation of 25% of the resource the fair share of management costs \$1.8 million. Obviously the commercial fishery isn't economically viable. | Please see response to Speaker 7, Comment 1, December 6, 2002. | No | 150, 150.03, 150.05 |
| C-3 | Current regulations allow 6 months of fishing, three days a week or 78 fishing days per year. If 99 permits are issued, that allotment could be caught by landing only 84 pounds per day. | In a separate rulemaking, Phase II implementing regulations propose cumulative trip limits and seasonal alignment with the federal rockfish trip limits and seasons. | No | N/A |
| C-4 | DFG likes use an economic multiplier to overstate the value of the commercial fishery, however DFG fails to deduct costs to the state for managing this fishery as well as the lost income to businesses displaced by the commercial fishery. The actual economic benefit of this commercial fishery is certainly less than \$6.8 million and most likely a deficit. | This comment refers to information within the NFMP and it outside the scope of this rulemaking. | No | N/A |
| Faxes received by the Commission | | | | |
| Fax-1 Mike Zamboni | | | | |
| C-1 | Opposes banning stick gear. He uses this gear north of Cape Mendocino and feels a ban would force him to fish in deeper water where there would be more bycatch. He feels that nearshore fish populations are healthy and no further restrictions are needed. | Please see response to Speaker 1, Comment 1, August 29, 2002. | No | N/A |
| Documents handed in at the public meetings: | | | | |
| Public Meeting Hand-in Writer-1 Ted Wheeler (speaker 5, Monterey) | | | | |
| C-1 | 2003 will cost the Department \$3 for every \$2 in commercial fish sales. | Please see response to Speaker 5, Comment 1, December 6, 2002. | No | N/A |

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| C-2 | DFG'S figures show an average \$2.77 per pound paid to nearshore fishermen for 2001. $\$2.77 \times 2001 \text{ allocation} = \1.5 million . $\$1.5 \text{ million} \div 200 \text{ permits} = \$7,500 \text{ per permittee}$. 2003 allocation commercial 29%, recreational 71%. $29\% \text{ of } \$7.7 \text{ million} = \2.5 million , $\$2.5 \text{ million} / 200 \text{ permits} = \$11,254 \text{ per permit}$. | These were the commenter's calculations to support his oral comments (See Speaker 5, December 6, 2002). According to DFG records, in 2001 the average price per pound for the permitted nearshore species was \$4.35. It's unclear how he came up with \$2.77. | No | N/A |
| C-3 | Each commercial fisherman's share of management, enforcement and research for the commercial fishery is \$11,254.71. | Please see response to Speaker 7, Comments 1 and 2, December 6, 2002. | No | N/A |
| C-4 | 1.3 million pounds of nearshore species divided by 1.2 million recreational fishermen = 1.1 pounds of fish per recreational fisherman | These were the commenter's calculations to support his oral comments (See Speaker 5, December 6, 2002). Not every recreational fisherman targets nearshore species. | No | N/A |
| Public Meeting Hand-in Writer-2 Randy Fry (speaker 7, Monterey) | | | | |
| C-1 | The proposed permit fee of \$500 does not cover the costs associated with managing the nearshore fishery. Based on the management costs listed in the NFMP (\$7.8 million), proportion of the OY allocated to the commercial fishery (0.25) and number of permits issued (174) the cost of a permit should be around \$11,000. | Please see response to Speaker 7, Comment 1, December 6, 2002. | No | 150, 150.03, 150.05 |
| C-2 | Fish and Game Code Sections 710.5 and 711 state that, to the extent feasible, the costs of commercial fishing programs shall be provided out of revenues from landing taxes and permit fees. | Please see response to Speaker 7, Comment 2, December 6, 2002. | No | 150, 150.03, 150.05 |
| Public Meeting Hand-in Writer-3 James R. Wilson, Joel Greenberg, and Eric Rogger (handed in by Randy Fry, speaker 7, Monterey) | | | | |
| C-1 | The following comments represent the positions and recommendations of the Southern California Chapter | Please see response to Speaker 7, Comments 1 and 2, December 6, 2002. | No | 150, 150.03, |

| Speaker | Comment | Response | Revision needed? | Section number |
|---|---|--|------------------|---------------------------|
| | of the Recreational Fishing alliance: There are several problems in the proposed fee permit recommendations in economic analysis that will cover the costs of managing the restricted access program by DFG. The overall costs of managing this fishery are \$7.7 million and 25% or \$1.9 million (based on commercial allocation) of that should come from the commercial fishery. | | | 150.05 |
| C-2 | Position on Agenda item 20 regarding changes to the commercial spot prawn fishery. | This comment relates to another rulemaking. | No | N/A |
| C-3 | Position on Agenda Item 21, a recreational preference for the nearshore marine resources. | This comment relates to another rulemaking. | No | N/A |
| Public Meeting Hand-in Writer-4 Mike Malone (handed in by Randy Fry, speaker 7, Monterey) | | | | |
| C-1 | The public has repeatedly requested that DFG perform this economic analysis and the public has been ignored. Therefore it is requested that at this time the Commission directed DFG to provide to the public a thorough analysis of nearshore fishery management funding by each fishing sector consistent with the California Code and Constitution prior to any adjustment in nearshore commercial fishery fee structure. The letter includes quotes parts of Fish and Game Code Sections 710.5, 710.7, and 711(b) and (c) regarding how to fund commercial fishing programs. The letter also quotes comments made at various Nearshore Advisory Committee meeting (part of the NFMP development). | The Department and Commission are reviewing the current user fee structure for permits and licenses. The objective is to develop a more systematic approach to setting user fees, which reasonably reflects the cost of managing the natural resource for the users, and the demand and values attributed to the natural resources by the users. | No | 150, 150.03, 150.05 |